

RESOLUTION NO. 2022-118

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO)

WHEREAS, on July 26, 2022, the City Council (the “City Council”) of the City of Fontana (the “City”), pursuant to the Mello-Roos Community Facilities Act of 1982 (the “Act”), adopted a resolution entitled “A Resolution of the City Council of the City of Fontana of Intention to Establish a Community Facilities District Proposed to be Named City of Fontana Community Facilities District No. 111 (Monterado) and to Authorize the Levy of a Special Tax” stating its intention to establish City of Fontana Community Facilities District No. 111 (Monterado) (the “Community Facilities District”) and to authorize the levy of a special tax within the Community Facilities District to finance certain public facilities and services;

WHEREAS, on July 26, 2022, the City Council also adopted a resolution entitled “A Resolution of the City Council of the City of Fontana to Incur Bonded Indebtedness of the Proposed City of Fontana Community Facilities District No. 111 (Monterado)” (the “Resolution to Incur Bonded Indebtedness”) declaring the necessity for incurring bonded indebtedness and setting the date for a public hearing to be held on the proposed debt issue;

WHEREAS, pursuant to the Resolution to Incur Bonded Indebtedness, notice of said public hearing was published in the *Fontana Herald News*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act;

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing;

WHEREAS, at said public hearing, any person interested, including persons owning property within the area and desiring to appear and present any matters material to the questions set forth in the Resolution to Incur Bonded Indebtedness appeared and presented such matters;

WHEREAS, oral or written protests against the proposed debt issue were not made or filed at or before said public hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax;

WHEREAS, on this date, the City Council adopted a resolution entitled “A Resolution of the City Council of the City of Fontana of Formation of the City of Fontana Community Facilities District No. 111 (Monterado), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District” (the “Resolution of Formation”);

WHEREAS, the City Clerk of the City (the “City Clerk”) is the election official that will conduct the special election on the proposition to incur bonded indebtedness for the Community Facilities District;

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of July 19, 2022, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing;

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on September 13, 2022, and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on September 13, 2022;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fontana as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The City Council deems it necessary to incur the bonded indebtedness.

Section 3. The bonded indebtedness will be incurred for the purpose of financing the costs of the Facilities (as defined in the Resolution of Formation), including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose.

Section 4. In accordance with the previous determination of the City Council, the whole of the Community Facilities District will pay for the bonded indebtedness.

Section 5. The maximum aggregate amount of debt to be incurred is \$8,000,000.

Section 6. The maximum term the bonds to be issued shall run before maturity is 40 years.

Section 7. The maximum annual rate of interest to be paid shall not exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds, payable semiannually or at such times as the City Council or its designee shall determine, the actual rate or rates and times of payment of such interest to be determined by the City Council or its designee at the time or times of sale of the bonds.

Section 8. The proposition to incur the bonded indebtedness shall be submitted to the voters.

Section 9. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of July 19, 2022, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings held by the City Council on the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

Section 10. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), and (b) to the holding of said election on September 13, 2022. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on September 13, 2022.

Section 11. The date of the special community facilities district election (which shall be consolidated with the special district election to levy a special tax within the Community Facilities District) at which time the proposition shall be submitted to the voters is September 13, 2022.

Section 12. The election is to be conducted by mail ballot. The mailed ballots are required to be received in the office of the City Clerk no later than 8:30 p.m. on September 13, 2022; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

Section 13. All actions heretofore taken by the officers, employees and agents of the City with respect to the incurrence of bonded indebtedness, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

Section 14. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

Section 15. This Resolution shall take effect immediately upon its adoption.

APPROVED and ADOPTED by the City Council of the City of Fontana on September 13, 2022.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine McClellan Key, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Resolution is the actual Resolution duly and regularly adopted by the City Council of said City at a regular meeting thereof, held on September 13, 2022, by the following vote to-wit:

AYES:

NOES:

ABSENT:

City Clerk

Mayor

ATTEST:

City Clerk